APPENDIX A

Evaluation Interview Participants

Tribal Air Program Evaluation Participants

EPA Staff

Darrel Harmon, EPA Office of Air and Radiation (OAR)
Jerry Kurtzweg, EPA Office of Air and Radiation (OAR)
Tonya Fish, American Indian Environmental Office (AIEO)
Laura McKelvey, Office of Air Quality Planning and Standards (OAQPS)
Julie McClintock, OAQPS
Larry Brockman, OAQPS
Sarah Terry, OAQPS
Jean Crocker, EPA Region 1
Valeri Ferry, EPA Region 1
Ida Gagnon, EPA Region 1
James Sappier, EPA Region 1
Mazeeda Kahn, EPA Region 2
Gracy Danois, EPA Region 4
Faye Blondin, EPA Region 5
Ben Giwajna, EPA Region 5
Susan Branning, EPA Region 6
Dick Thomas, EPA Region 6
Tony Talton, EPA Region 6
Judith Robinson, EPA Region 7
Monica Morales, EPA Region 8
Bernadette Gonzales, EPA Region 8
Doug McDaniel, EPA Region 9
Regina Thompson, EPA Region 10
Mary Manous, EPA Region 10
Jed Harrison, EPA Tribal Air Monitoring Support Center (TAMS)
Greg Budd, EPA TAMS

Tribal Air Professionals

Dave Lombard, Houlton Bank of Maliseet Indians
Deirdre Whitehead, Passamaquoddy Pleasant Point
Trevor White, Passamaquoddy Indian Township
Heather Don-Oeson, Aroostook Band of Micmacs
Eric Nicolar and John Banks, Penobscot Nation
Les Benedict, St. Regis Mohawk
Danny Childers, Eastern Band of Cherokee
Jeff Mears, Oneida Tribe of Indians of Wisconsin
Joy Weicks, Fond du Lac Band of Chippewa
Beth Janello, Pueblo of Sandia
Dwayne Beavers, Cherokee Nation
Tabitha Worley, Quapaw Tribe of Oklahoma
Gina Kneib, Sac and Fox of Kansas and Missouri
Randy Ashley, Confederated Salish and Kootenai
Virgil Frazier, Southern Ute
Pat Mariella, Margaret Cook, Daniel Blair, Gila River
Kesner Flores, Wintun EPA
Tony Bynum, Yakama Nation
Farsid Farsi, Shoshone Bannock
Julie Simpson, Nez Perce
Raman Iyer, Chehalis Tribe

Other Organizations

Michelle Baker, American Indian Science and Engineering Society (AISES)
Everett Chavez, AISES
David LaRoche, Institute for Tribal Environmental Professionals (ITEP)
Jerry Pardilla, National Tribal Environmental Council (NTEC)
Bill Grantham, NTEC
Hollis Hope, Academy for Health Services Research and Health Policy

APPENDIX B

Interview Questionnaires

Interview Questionnaire: EPA Tribal Air Program Evaluation - Version 1[1]

- *Program Basics:* How is the regional tribal air program structured (e.g., number of EPA FTE's and resources, number of tribes)? What are the major program activities, emphases and objectives in the tribal air program?

- *Building Tribal Capacity:* How many tribes are working towards eventual assumption of part of all of the air quality program? What challenges are they encountering and how does EPA help them overcome those challenges? Are tribes developing the capacity to run effective air programs?

- *Grants:* What considerations do you use in making grant awards to tribes? Do you have enough grant resources to meet needs? What types of program development needs and activities do grant funds support?

- *Technical Assistance:* What types of technical assistance does EPA offer tribes? What other technical assistance resources are available to tribes? Are the current types and levels of technical assistance addressing tribes' needs?

- *Providing the Tools*: Is EPA developing and making available the right tools (e.g., rules, model program guidance, databases and modeling tools) to support the development of tribal air programs? Are there other support tools that would be useful?

- *Significant Air Issues*: What are the main air quality issues facing tribes in your region (e.g., non-attainment with criteria pollutant standards, toxics, visibility)? What are the key sources (e.g., point, non-point, off-reservation)? Is air quality improving?

- *Federal Implementation*: How significant an activity is direct Federal implementation of air quality programs on tribal lands (e.g., FIPs) in your Region? What are the major activities and key challenges? Does direct Federal implementation assist with eventual tribal air program administration?

- *Communication and Roles*: Are tribes participating in Regional Planning Organizations and developing working relationships with state and local agencies where appropriate? Do tribal organizations such as the National Tribal Environmental Council and Tribal Operations Councils

[1] Distributed to participants from EPA and other organizations.

adequately represent tribes' collective needs?

- *Cultural Diversity*: Are EPA's efforts sensitive/responsive to tribal differences and culture?

- *Challenges*: What are the most critical challenges in developing, implementing, and maintaining the tribal air program, both at the regional and national level?

- *Bottom Line:* In your opinion, is EPA investing in the right areas and undertaking the right activities in the TAP? If you could do three things to improve the TAP, what would they be?

Interview Questionnaire: Tribal Air Program Evaluation - Version 2[2]

General Approach:

The EPA Tribal Air Program (TAP) has undergone several changes since its inception and faces new challenges related to supporting capacity-building at the tribes, helping to address significant air risks on tribal lands, and providing the tools necessary to achieve those ends. In September 2001, the TAP contracted with Industrial Economics and Ross & Associates Environmental Consulting, Ltd. to perform a program evaluation. This evaluation takes a constructive look at program lessons learned and will inform program management decisions and enhance program effectiveness. Findings might assist EPA in allocating its tribal program resources (staff and grant monies) most effectively and identify program areas that need addition attention/focus. The evaluation will be summarized in a report prepared by the contractor team in April 2002.

The contractor team is interviewing individuals in several EPA programs (OAQPS and OAR and the Regions), environmental managers from more than 15 tribes, and air quality specialists at NTEC, ITEP, AISES, and other organizations.

Key Questions/Information:

Basics

- How many tribal members do you have? How many acres of land do you govern?
- Are there any tribal air sources (major or minor) on your tribal lands?
- Do you have an air program, and if so, how is it structured? When was it established? What are its major program activities, and emphases?
- Do you have established air quality goals?

Capacity Building

- What challenges have you faced when building your tribal air program? How has EPA supported you? What additional support do you think EPA can (could have) provide(d)?
- What aspects of your program need further developing?
- Has your program experienced high staff turnover? Is this a concern? If so, what have

[2] Distributed to Tribal environmental managers.

you done to address this?

Relationship with EPA (general)

- Please characterize your relationship with EPA's regional tribal air program staff.
- Please characterize your relationship with EPA's OAQPS.
- Please characterize your relationship with EPA's OAR–Immediate Office.
- Please characterize your relationship with the American Indian Environmental Office (regarding air quality issues).

Grants

- Are you comfortable with the way EPA disburses tribal grant monies? What criteria do/should EPA use?
- To date, have you had enough grant resources to meet your program's needs?
- How would you use additional resources, if they were to become available?
- Can you suggest any improvements for EPA's grant notification and award processes?

Technical Assistance

- What types of technical assistance does EPA offer? Is this technical assistance useful/helpful?
- What other technical assistance resources are available to tribes and do you take advantage of those?
- What additional technical assistance would you like and who would you like to provide it?

Providing the Tools

- Is EPA developing and making available the right tools (e,g., rules, model program guidance, grant award criteria) to support your tribal air program?
- Do you believe the model rule developed by Region 10 will be useful tool? Why or why not?
- What other tools would you like to see EPA develop?

Significant Air Issues

- What are the main air quality issues facing your tribe (e.g., non-attainment with criteria pollutant standards, toxics, visibility)?
- Is air quality improving?

Communication and Roles

- Do you participate in the WRAP or any other regional planning organizations?
- Do you feel that organizations such as the National Tribal Environmental Council and Tribal Operations Councils represent your needs?
- Are you aware that a new national tribal organization has been funded? What would you hope this organization would focus on?

Challenges

- What are the most critical challenges in developing, implementing, and maintaining your

air program?

- In your opinion, is EPA investing in the right areas and undertaking the right activities in the Tribal Air Program? If you could do 3 things to change EPA's Tribal Air Program, what would they be?

APPENDIX C

Case Studies of Regions 1 and 10

REGIONAL CASE STUDIES

In order to gain a more in-depth understanding of the air quality issues and concerns that Tribes face, the research team conducted two case studies, which consisted of more detailed face-to-face interviews with EPA Regional staff and or/Tribal members. These interviews were supplemented with additional phone conversations when in person meetings could not be scheduled. The research team focused on two EPA Regions, 1 and 10, because of the difference in issues faced by Tribes in these two Regions. These discussions took place in February and March of 2002. Summaries of the information collected are provided below. The findings and recommendations from the case study are also incorporated into the body of this report.

Region 1 Case Study

There are nine Tribes in Region 1, which includes the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. Of the nine Tribes, seven currently have active air grants. These Tribes work with EPA's Region 1 Indian program office, a multi-media group run out of the State Grants and Indian Program. In addition to several full time EPA staff members devoted to Tribal issues, EPA Region 1 technical staff in other offices (e.g, permitting) also work on Tribal issues on an as needed basis. Each coordinator works with one Tribe and helps it to achieve its environmental goals.

The nine Tribes in Region I have faced a jurisdictional obstacle in their efforts to develop capacity and build air programs. Beginning in 1976, New England Tribes brought law suits to claim access to Tribal lands. As a result of these claims, Tribes received Federal recognition as an Indian Tribe with the right to self-govern and received title to thousands of acres of land. Unique regulatory jurisdictional issues between Tribes, states, and the Federal government resulted from the government to government relationship brought along by the Settlement Acts. While Tribes interpret the Settlement Acts as providing them greater sovereignty and right to self-govern, many states understand the Settlement Acts to reduce the Tribes' right to self-govern.

The types of air programs and activities that Tribes in Region 1 pursue vary significantly from those that Tribes in other areas of the country undertake. In general, air quality on Tribal lands in New England is affected by off-reservation impacts, not by emission sources on reservations. Because of the limited industrialization on reservations, Tribes are not working to develop regulatory programs. Therefore, as part of their air programs, Region 1 Tribes are focusing on monitoring air quality and assessing health risks to Tribal communities. Monitoring has become an important tool for Tribes to evaluate air quality on their reservation and understand what pollutants are having a

significant impact. The monitoring undertaken by Tribal communities is filling important national emissions data gaps.

Currently, there are seven air monitors on Tribal lands in Region 1. Interagency Monitoring of Protected Visual Environments (IMPROVE) monitors are sited on the Aroostock Band of Micmacs' reservation in northern Maine, the Penobscot Nation's land in central Maine, and the reservation of Wampanoag Tribe of Gay Head in southern Massachusetts. The Aroostoock Band of Micmacs is the first Tribe in the country with an on-line PM Improved Speciation monitor. In addition, several mercury and acid rain monitors are being maintained on Tribal lands. The Penobscot Nation is leading these monitoring programs. The Tribe is developing a model Air Monitoring Program for Tribes in Region 1.

In addition to monitoring air quality, Tribal communities in New England are measuring the accumulation of mercury, lead, and persistent bioaccumulative (PBT) toxins in animal tissues to determine the potential impact of these pollutants on human health. The Passmaquoddy Indian Township Tribe conducted an analysis of moose and deer liver to test for levels of cadmium and heavy metals. After analyzing these samples, the Tribe should be able to determine the risk to Tribal hunters who, following traditional practices, eat the liver first after the kill. In addition, the Narragansett Indian Tribe, the Passamaquoddy Pleasant Point, the Wampanoag Tribe of Gay Head, and the Houlton Band of Maliseet have all sampled and tested fish tissues to assess the level of mercury. The results of these tests will determine whether fish consumption advisories should be provided to Tribal populations in order to limit the risks to human health. As part of these efforts, some Tribes are also conducting fish consumption surveys to gain a better understanding of human health risks from fish consumption.

New England Tribes are enhancing their understanding of air quality on their lands through their monitoring and sampling efforts. While Tribes cannot directly impact the emissions detected through monitoring efforts, many are working to attain TAS status (e.g., the Mohegan Tribe). This affords them a higher level of input in reviewing and providing comments on EPA and state permits and standards affecting sources that contribute to air pollution on reservations, than if they commented as citizens.

The Mohegan Tribe and Mashantucket Pequot Tribal Nation face different issues than do the rest of the Region I Tribes. Both reservations have sources of air emission on-site that could be classified as major sources based on emission potential. The Mohegans have submitted a TAS application and have developed a TIP to regulate their on-site sources. The Mashantucket Pequot Tribe is also starting to develop a TIP. In addition, the Tribe passed the first tribal resolution for stationary source emissions in the country, in 2001. Both Tribes conduct monitoring of their on-site boilers and ensure compliance with all applicable regulations.

Tribes in Region 1 plan to develop and enhance their monitoring efforts to assess air quality and determine any risks to human health. Tribal air professionals in Region 1 indicate they would like to engage in additional training to gain a better understanding of air quality issues and monitoring. Region 1 Tribal air programs would also like to make further efforts to reach out to the Tribal community and educate them on the importance of clean air and any human health risks

uncovered through monitoring efforts. However, as Region 1 Tribes move forward with their air programs, some stakeholders express concern that OAR expects Tribal air programs to focus on regulation development, which does not match the current circumstances of Tribes and their air programs in New England.

Region 10 Case Study

The EPA Region 10 States of Alaska, Idaho, Oregon, and Washington are home to more than 270 Indian nations and communities. More than 220 of these communities are found in Alaska, alone. Since the mid-1990s, EPA Region 10, its Tribes, and other air management agencies have worked to understand what air pollution sources are found on tribal lands and what air quality requirements are most needed in Indian country. As an early step, in 1995 EPA assembled an inventory of air pollution sources on reservation lands. The Region then engaged in a series of consultations with Tribes in Idaho, Oregon, and Washington (the target states) to shape the content and structure of an approach to address perceived regulatory gaps. The resulting Tribal Air Rules, recently published in draft form in the *Federal Register*, were designed to establish a new regulatory framework that, when implemented, could provide basic air quality protections for more than 200,000 people living on reservations in Idaho, Oregon, and Washington.

In June 1999, EPA Region 10 Tribal Air Program staff met with 31 Tribal leaders, managers, and attorneys representing 17 Tribes from around the Pacific Northwest (Idaho, Washington, and Oregon) to initiate a consultation process to address a perceived gap in air quality requirements under the Clean Air Act on tribal lands. The resulting effort was called the Region 10 Tribal Air Rules Project (TARP). In July 2000, and after a second consultation process as well as several follow-up discussions with individual Tribes, EPA completed a draft set of proposed rules. EPA revised and updated the rules based on extensive tribal input and published a proposed set of Tribal Air Rules in the March 15, 2002 *Federal Register*. Some believe, as does one tribal air manager interviewed for this evaluation, that "the Region 10 project was successful because the Region went out to the Tribes to ask for feedback and involved the Tribes intensively."

The draft rules propose establishing a Federal Implementation Plan (FIP) framework for air quality protection on 39 of the 41 Indian reservations in the three states and provide Federal rules where there are no EPA-approved Tribal or State Implementation Plans. The proposed FIPs are structured in a modular fashion so that, over time, Tribes can replace all or part of the Federal regulations with Tribal Implementation Plans (TIPs). The FIPs contemplated by the rules enable EPA to fulfill its trust responsibility under the Clean Air Act by protecting reservation environments and promoting the sovereignty of Tribal governments. Key air quality issues addressed by the March 15, 2002 rules include:

- rules for open burning;
- rules for limiting sulfur in fuels and sulfur dioxide emissions;
- limits on opacity and duration of visible emissions;
- procedures to follow during air pollution emergencies;
- rules for registering air pollution sources and reporting emissions; and
- rules for non-Title V operating permits.

The Tribal Air Rules also include several "additional rules" that would apply only to reservations where specific sources exist and EPA has determined, in consultation with the Tribe, that more stringent provisions are appropriate. The Tribal Air Rules call for individual FIPs to be tailored to address the air quality concerns of participating Tribes. One tribal air manager described the rules package as a "solid protective tool for Tribes with less-developed programs."

Participants involved in the Region 10 process acknowledge that while the TARP and the Region 10 process is well-supported by participants and of keen interest to other Regions, the effort may be difficult to replicate elsewhere due to the time and resource requirements it poses. Other Tribal Air Program Evaluation participants also express concerns that the model rules may establish a regulatory "ceiling" that can make it difficult to establish air quality limits that are more stringent that the FIP. For the time being, however, the Tribal Air Rules are still under public review and as-yet untested. The comment period closes on June 13, 2002.